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14
15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 CENTER FOR BIOLOGICAL DIVERSITY,
19 *et al.*,

20 Plaintiffs,

21 v.

22 JANE NISHIDA, in her official capacity as
23 the Acting Administrator of the United States
24 Environmental Protection Agency,

25 Defendant.

Case No. 3:20-cv-05436-EMC

26 **JOINT STIPULATION TO STAY**
27 **PROCEEDINGS FOR 90 DAYS [AND**
28 **PROPOSED ORDER]**

29 Pursuant to Local Rule 6-2, Plaintiffs Center for Biological Diversity, Center for
30 Environmental Health, and Sierra Club (collectively, "Plaintiffs") and Defendant Jane Nishida,
31 in her official capacity as the Acting Administrator of the United States Environmental
32 Protection Agency¹ (hereinafter "EPA"), by and through the undersigned counsel, hereby jointly

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¹ Jane Nishida, Acting Administrator of the U.S. Environmental Protection Agency, is substituted for Andrew R. Wheeler in accordance with Federal Rule of Civil Procedure 25(d).

1 stipulate to stay all proceedings in this case for 90 days, with a status report due at the conclusion
 2 of the 90 days. The basis for this request is that counsel for Plaintiffs and Defendant
 3 (collectively, the “Parties”) have made substantial progress in negotiations on terms which would
 4 resolve all issues remaining in this matter other than Plaintiffs’ claim for costs of litigation,
 5 including attorneys’ fees. The Parties are in the process of reducing those terms to writing. Any
 6 settlement is subject to review and approval by officials in EPA and the Department of Justice
 7 and public notice pursuant to Clean Air Act Section 113(g), 42 U.S.C. § 7413(g). In support of
 8 this stipulation and proposed order, the Parties state as follows:

9 1. The Court’s December 10, 2020 Order (Dkt. No. 36) set the following briefing
 10 schedule for this case:

<u>Deadline</u>	<u>Due Date</u>
Plaintiffs’ Motion for Summary Judgment	February 16, 2021
EPA’s Combined Opposition to Plaintiffs’ Motion for Summary Judgment and Cross- Motion for Summary Judgment	April 20, 2021
Plaintiffs’ Combined Reply in Support of Plaintiffs’ Motion for Summary Judgment and Opposition to EPA’s Cross-Motion for Summary Judgment	May 18, 2021
EPA’s Reply in Support of EPA’s Cross- Motion for Summary Judgment	June 8, 2021
Hearing	July 1, 2021 1:30 pm

23 2. This is the third request for a time modification. The Parties previously jointly
 24 stipulated to extend Defendant’s answering deadline from October 16, 2020 to November 20,
 25 2020 (Dkt. No. 18).² The Parties also jointly stipulated to extend the briefing schedule by 60
 26

27 ² The Parties jointly stipulated to further extend Defendant’s answering deadline (Dkt. No. 32),
 28 but that stipulation was withdrawn by Defendant (Dkt. No. 33).

1 days to provide time to discuss settlement proposals (Dkt. No. 35). The Court granted both
2 requests (Dkt. Nos. 19 and 36).

3 3. Counsel for the Parties have made substantial progress in negotiations on terms
4 which would resolve all issues remaining in this matter other than the claim for costs of
5 litigation, including attorneys' fees.

6 4. The Parties believe that 90 days is adequate time to complete their negotiations
7 and reduce their agreement in principle to a writing.

8 5. Assuming the Parties are able to complete these negotiations and a written
9 agreement, counsel for EPA will seek the approval of the appropriate officials within the
10 Department of Justice and EPA and counsel for Plaintiffs will seek formal organizational
11 approval of a proposed consent decree.

12 Accordingly, the Parties stipulate to and request that the Court enter an order staying all
13 proceedings, including the briefing deadlines, for 90 days from the date of the Court's order,
14 with a status report due at the conclusion of the 90 days.

15 Respectfully submitted,

16 Date:

17
18 /s/ Lucy E. Brown

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[PROPOSED] ORDER

Pursuant to stipulation and for good cause shown, all proceedings are stayed for 90 days from the date of this order. Upon expiration of the stay, the Parties shall file a status report.

IT IS SO ORDERED.

Dated: _____

EDWARD CHEN
United States District Judge